

**STILLWATER BOARD OF ADJUSTMENT
Regular MEETING OF March 3, 2022
IN ACCORDANCE WITH THE OKLAHOMA OPEN MEETING
LAW, THE AGENDA WAS POSTED March 1, 2022
IN THE MUNICIPAL BUILDING AT 723 SOUTH LEWIS STREET**

Members Present:

Craig Spencer
Charles "Tim" Hardin
Andrew Crofford
Mark Nordquist
Collin Mason

Staff Present:

Kimberly Payne, Legal Counsel
Jeff Mathews, Community Development Director
Joshua Brown, Planning Technician
Cindy Gibson, Admin. Services Manager
Chelsey Weaver, Administrative Assistant

Members Absent:

None

Guests:

Greg Stracener
Kelly Harris
Joshua Brown

1. CALL MEETING TO ORDER.

Chair Spencer calls the meeting to order at 5:30 PM. Chair Spencer introduces the board and explains the proceedings for the evening.

The following individuals are sworn in:

Greg Stracener Kelly Harris Joshua Brown

2. BUSINESS ITEMS FOR DISCUSSION AND POSSIBLE ACTION ON:

Chair Spencer states that items a and b will be heard together, as they are from the same applicant and for the same address.

- a) Greg & April Stracener, **VARIANCE (VAR22-01)**, requesting variances to Chapter 23, Sections 23-137.c for lot size at property currently addressed as 1223 S. Husband Pl., Stillwater, Oklahoma.
- b) Greg & April Stracener, **VARIANCE (VAR22-02)**, requesting variances to Chapter 23, Sections 23-137.c for lot size and 23-137.d.2.a&c for setback at property currently addressed as 1223 S. Husband Pl., Stillwater, Oklahoma.

Joshua Brown, Planning Technician, presents the Staff report, and asks if there are any questions for staff.

Mr. Hardin asks when the lot was split; Mr. Brown responds recently as both applications were submitted at approximately the same time. Mr. Brown also states that the Lot Split has been approved by City staff, but Deeds have not yet been filed with the City.

Chair Spencer asks if there are any more questions for staff.

Mr. Hardin asks who requested the Lot Split; Mr. Brown replies that it is the same applicant.

Chair Spencer asks if there are any more questions for Staff.

Mr. Nordquist asks if First request is to allow the smaller lot size, and the second is seeking a variance for setback requirements; Mr. Brown responds affirmatively, who reiterates that the first request is for the lot area and depth, and refers back to the staff presentation. Mr. Brown continues on to state that the current lot is nonconforming, and was established before the current code; the lot split reduced the area and depth of the already nonconforming lot, which already has a structure; and clarifies that the second variance request is for all subsections of Section 23-137 to allow a new structure to be built on the second lot.

Mr. Nordquist then clarifies that both requests have to do with the applicant's desire to build the new structure on the second lot and ask if the Lot Split has already been granted. Mrs. Gibson states that the application has been reviewed and approved by staff, but no final warranty deeds have been received, stamped, or filed at the county as of yet. Mr. Brown adds on, adding that staff has reviewed and approved it, but it is not yet finalized. Mrs. Gibson comments that the applicant, who is in attendance, could likely respond to this question better.

Mr. Crofford asks if the variance requests are tabled, the lot split would happen regardless of the Board's decision and the structure would be built anyway. Mrs. Kimberly Payne, Legal Counsel, clarifies that the lot would be split, but a variance would still be necessary to build on the second tract.

Mrs. Gibson comments that the applicant will have the opportunity to address these concerns when they speak, and it is her belief that the first variance request regarding the preexisting nonconforming structure is to bring it back into conformity with city code.

Chair Spencer questions if a variance request is even necessary, given that the lot split is already approved. Mrs. Payne responds that "grandfathering," or legal nonconformity, has to do with the setbacks, not for the lot size; both variance requests are to allow a lot with an area of approximately 3,550 square feet instead of the minimum for its Zoning District, which is 5,000; and continues to clarify that the second variance also includes a requests to reduce the setback to 10 feet.

Chair Spencer asks if there are any additional questions for staff; none respond. Chair Spencer then asks if there is anyone who would like to speak in favor of these variance requests, and invites the applicant up to speak.

Mr. Greg Stacener, 760768 S. 3300 Road, Perkins, OK comes to speak on the following:

- First purchased the property, it was zoned for Commercial use.
- Original intent after purchasing it was to split the lot and build a house there.
- Chose not to leave one lot at the required 5,000 square feet and the other at about 2,000 square feet, instead chose to split them evenly and thus needs a variance for both lots.
- Using aerial view, shows that several nearby neighbors have similar situations, where the lot has been split and a structure placed on the new lot.
- This point being made is to establish that the action is not unusual for the area.

Mr. Hardin asks if the applicant feels he faces a particular hardship by not being able to split the lot; Mr. Stracener responds that he feels it is a hardship because he would be unable to use it and it currently is a "dumping ground."

Mr. Hardin questions what splitting the property then allow the applicant to do; Mr. Stracener replies that splitting the property will allow the applicant to build a structure there and rent it out for someone to live in. Mr. Hardin speaks up, clarifying that a short distance north from the subject property houses duplexes that are rented out.

Chair Spencer asks if there are any more questions for the applicant; none reply, and Chair Spencer asks if there is anyone wishing to speak in favor of the applicant; none reply. Chair Spencer then asks if there is anyone wishing to speak in opposition; none reply, and Chair Spencer closes the Public hearing and invites Mr. Brown to present the alternatives.

Mr. Brown presents the alternatives, which are:

1. Find that each of the criteria for approval of the request is met. The Board will explain how each criterion is met in order to approve the variance(s).
2. Find that each of the criteria for approval of the request is met by imposing modifications or conditions to ensure that the criteria are met. The Board will explain how the criteria are met to grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request is not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

Chair Spencer calls for the Board to discuss.

Mr. Hardin comments that they are glad the applicant mentioned the previous zoning and the fact that the current vacant lot is a dumping ground, devaluing the property. Mr. Hardin states that he believes this would constitute a hardship, and that it is indeed a peculiar situation.

Chair Spencer and Mr. Hardin states that they appreciate that the lots are split 50/50, instead of splitting them unevenly.

Mr. Nordquist comments that he is trying to separate the two requests in his mind, as his questions mostly concern setback distances; also acknowledges that a precedent has been set on setback distances considering the neighborhood context; states that he does not believe the granting of the request to have smaller than code-required lots to contribute a detriment to the neighborhood; clarifying that the request under discussion for action at that moment is only the variance for reduced lot size. Mrs. Gibson confirms that two actions will be needed: a variance to the required setbacks, and a variance allowing both lots to be smaller than 5,000 square feet.

Mrs. Payne adds that it is fine to consider them together, and it is up to the Board if they would like to make 2 motions or to make a vote and then discuss the second item separately.

Chair Spencer asks for discussion pertaining to the lot size variance request (VAR22-01) and asks if there is a motion on this.

Mr. Hardin moved to approve the variance request lot sizing less than 5,000 square feet (VAR22-01), and Mr. Mason seconds.

Mrs. Gibson asks if staff has mentioned all their findings, or if the Letter of Justification from the applicant will be adopted as finding and fact. Mrs. Payne responds that the motion can be amended to adopt the Letter of Justification based upon the comments of the Board.

Mr. Hardin amends his previous motion. Chair Spencer asks Mrs. Payne if the second still holds; Mrs. Payne confirms the second holds.

Roll Call:	Spencer	Nordquist	Hardin	Crofford	Mason
	Yes	Yes	Yes	Yes	Yes

Time: 19 minutes

Chair Spencer then calls for discussion on VAR22-02, which Mrs. Payne clarifies is for a smaller lot size as well as setbacks.

Chair Spencer comments that he does not see this project creating any detriment to the public good, and that he appreciates that the proposed project would in fact benefit the community.

Mr. Nordquist asks about the property to the west, which was referenced as a neighborhood precedent earlier, and if there was indeed a previous variance that allowed the reduction of setbacks; Mr. Brown responds that he does not know.

Mrs. Payne clarifies that the question is whether nearby lots that have faced similar circumstances have had the same setback variance, as a precedent for this case. Mr. Nordquist confirms that is his question; Mrs. Payne comments that Tract 1 has legally nonconforming ("grandfathered") setbacks currently, and the variance would allow the new Tract to match it.

Chair Spencer asks if item VAR22-02 has already had its public hearing, or if one is still needed, and Mrs. Payne responds that a public hearing may be opened.

Chair Spencer opens the public hearing and invites the applicant up to speak.

Mr. Stracener comments that the lot to the west that was just referenced would have definitely needed a variance, since it was substantially smaller than the current lot in question only amounting to 5,000 square feet before its lot split.

Mr. Mason recognizes the applicant's comment, and states he was asking about the context surrounding the property and whether a variance was filed.

Chair Spencer then asks if there is anyone wishing to speak in favor; none reply. Chair Spencer asks if anyone would like to speak in opposition; none reply. Chair Spencer then closes the public hearing and calls for a final discussion and motion on this item.

Mr. Nordquist moves to approve the variance (VAR22-02) based upon the discussion of the Board, and Chair Spencer seconds.

Roll Call:	Spencer	Nordquist	Hardin	Crofford	Mason
	Yes	Yes	Yes	Yes	Yes

Time: 5 minutes

- c) City Sign & Banner, **VARIANCE (VAR22-03)**, requesting a variance to Chapter 23, Sec. 23-300.c for the number of signs at property addressed as 312 N Perkins Rd., Stillwater, Oklahoma.

Mr. Brown presents the Staff report, and asks if there are any questions for staff.

Mr. Mason confirms that Schlotzsky's restaurant is to the south of the property in question, and Mr. Brown responds affirmatively.

Chair Spencer opens the public hearing and asks if there is anyone wishing to speak in favor; none respond. Chair Spencer if anyone wishes to speak in opposition; none respond.

Chair Spencer then closes the public hearing and asks for alternatives.

Mr. Brown presents the alternatives, which are:

1. Find that each of the criteria for approval of the request is met. The Board will explain how each criterion is met in order to approve the variance(s).
2. Find that each of the criteria for approval of the request is met by imposing modifications or conditions to ensure that the criteria are met. The Board will explain how the criteria are met to grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request is not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

Chair Spencer calls for the Board discussion.

Mr. Crofford comments that this request is different from the usual variance requested by a business for the number of signs; and mentions that this request is for one sign on each elevation, whereas the usual request is for multiple signs on each elevation even though the property in question has one street frontage.

Mr. Hardin responds that Dutch Bros. had the same request in the past, of one sign on all four sides of the building.

Mr. Mason comments that the Schlotzsky's is in a similar situation, where it does not technically have frontage on the secondary street, and the Wing Stop (the business asking for the additional signage) wants to be situated in the area backwards from the street.

Mr. Nordquist observes that the property in question is not a corner, but it is similar to a corner because the driveway is connected to Perkins Road, and there is visibility from northbound traffic on Perkins Road, and the additional signage would allow the business to be better seen if it is granted the Variance.

Chair Spencer asks if there is any additional discussion needed, or if there is a motion.

Mrs. Payne reminds Chair Spencer that numbers 3 and 4 of the criteria still need to be discussed.

Chair Spencer comments that the advertising visibility for Perkins Road's northbound traffic satisfies the hardship criteria for him, and that it is indeed a peculiar situation because it is located on a corner but the business is not on the corner segment.

Mr. Nordquist comments that that last statement is not technically true, since the approach off of Perkins Road creates a corner effect, and Chair Spencer agrees.

Mr. Crofford states that in his opinion that a northbound driver on Perkins Road looking for a Wing Stop would have a higher chance of not noticing this business without the proposed additional signage; this would mostly be due to the 2 lanes of traffic in the opposite direction between the business and the northbound driver. Mr. Crofford also states that it would also be in the public good to allow the variance, he also believes the proposed signage is the minimum necessary to alleviate hardship considering the competing business (Schlotzsky's) to the south has two signs.

Mr. Hardin then states that he sees no public detriment created if this request is granted.

Mr. Crofford moves to approve Variance 22-03 based upon the four criteria the board has discussed, and Mr. Mason seconds the motion.

Roll Call:	Spencer	Nordquist	Hardin	Crofford	Mason
	Yes	Yes	Yes	Yes	Yes

Time: 13 minutes

- d) Macy Naas, **VARIANCE (VAR21-19)**, requesting a variance to Chapter 23, Section 23-121(b) for fence height on property addressed as 1801 E. Brooke Avenue, Stillwater, Oklahoma, in the Residential Single Family Small Lot (RSS) district.

Mr. Brown to present the Staff report.

Chair Spencer asks if there are any questions for staff.

Mr. Crofford asks what covenants are referred to in the applicant's Letter of Justification, where she mentioned that the approval of this variance would allow her to be in compliance with said covenants.

Mrs. Payne comments that she would assume the applicant is referring to the local HOA (Homeowner's Association) Covenants. Mr. Crofford clarifies if the specific criteria of the relevant covenants is known, and Mrs. Payne says she does not know.

Mr. Crofford continues to elaborate, stating that he was wondering what the exact requirement of the HOA Covenant is, and if it is within the City's ability to grant the Variance. Mrs. Payne states that it is a separate matter, but it is her guess that the covenant requires a fence to be strictly a privacy fence. Chair Spencer agrees, commenting that there could be conflicting language.

Mr. Crofford states that at one point about three months prior there was a similar variance request, at the "T" intersection of Moore and East Carnley Street, concerning waterway access and setback requirements. Mr. Crofford states that he has no further questions, he is simply recalling the similar case.

Mr. Nordquist adds that he recalls there was a sewer man-hole involved with that previous case.

Chair Spencer opens the Public hearing and asks if anyone would like to speak in favor of the item; none respond. Chair Spencer asks if there is anyone who would like to speak in opposition; none respond. Chair Spencer closes the Public hearing and excuses Mr. Brown from reiterating the alternatives from the staff report.

Chair Spencer calls for a discussion, or a motion.

Mr. Hardin comments that this is another variance request concerning a fence on a corner lot, which has been common occurrence for items heard by the Board recently; and the Board continues to approve them.

Mr. Nordquist responds that one request of this type has already been approved, and all the other developments in the area also desire 6-foot-tall fences on their corner lots.

Chair Spencer suggests the Board go through the criteria for approval.

Mr. Hardin states that the safety for children and dogs satisfies the hardship criteria, confirms that it is a unique situation because the location is a corner lot, and so long as the fence does not affect traffic there is no public detriment.

Chair Spencer comments that he does not believe the fence will have any impact on nearby traffic.

Chair Spencer asks if there is a motion.

Mr. Hardin moved to approve Variance 21-19, based upon the comments of the Board Members, and Chair Spencer seconds.

Roll Call:	Spencer	Nordquist	Hardin	Crofford	Mason
	Yes	Yes	Yes	Yes	Yes

Time: 5 minutes

- e) AGR Alumni Association, **VARIANCE (VAR22-04)**, requesting a variance to Chapter 23, Sec. 23-97.d.1 for front yard accessory structures at property addressed as 301 & 309 S. Jefferson Street, Stillwater, Oklahoma, and 911, 915, & 917 W 3rd Ave., Stillwater, Oklahoma.

Mr. Brown presents the staff report and asks if there are any questions for staff.

Chair Spencer asks to confirm that the proposed storage building is permanent; Mr. Brown responds affirmatively. Mr. Brown adds that the applicant is present and able to answer questions.

Chair Spencer asks if there are any other questions for Staff; none respond.

Chair Spencer opens the public hearing. Chair Spencer asks if there is anyone that wishes to speak in favor of this item.

Mrs. Kelly Harris, Keystone Engineering located at 723 S Lowry Street comes to speak on the following:

- Representing the owner this evening.
- Explains that a Variance is being requested for a 12 foot by 16 foot storage shed within the front building setback.
- Two options have been prepared because in her experience a second option is proposed during discussion, but she is unable to carry out that option due to it conflicting with what was previously advertised.
- That while two options were prepared, the applicant prefers the Northwest location, however the secondary option is acceptable if the first choice is not viable.
- The way the parking lot is constructed it leaves no other option other than the two presented, and that second location has a slight increase in slope, making option #1 the most desirable.
- Believes the unnecessary hardship criteria is met because the subject property is along three rights-of-way, which requires three building setbacks.
- Parking Lots are allowed to be constructed within 5 feet of the front property line and 2 feet from all other property lines. In this case, the curb is 5 feet off the North and West property lines, and 2 feet off the South property line. Also, it is standard for a Vehicle Bumper to overhang the curb by about 2 feet—whether that be front or rear. This situates the parked vehicles within 3 feet of the North and West property lines and directly at the South property line.
- The proposed shed would line up with the parked vehicles along Jefferson Street, and would be located further inside the property than the parked vehicles along the North property line.
- Displays a sketch from the builder demonstrating what the shed would look like, and states that it would not be situated on a concrete slab, but likely on skid.
- Believes the conditions are peculiar because Jefferson is a one-way street, meaning that the shed, if constructed, would still be 32 feet away off the street, on-street parking is allowed on the East side of Jefferson Street, and that those vehicles will provide a visual buffer. Also, there is existing on-street parking along the South side of 3rd (which is just across the intersection) which will keep northbound traffic far away from the property.
- Relief, if granted, would not impede any sight triangles or impair any intent of the code.
- That both of the two options presented only contain the minimum necessary action needed to alleviate hardship.

Mrs. Harris closes her remarks by asking if the Board has any questions for her.

Mr. Nordquist asks Mrs. Harris if the Board's preference is to put the storage building on the Southwest corner, how she would address the drainage issues there.

Mrs. Harris responds that since the building would be on skids, cinder blocks or some sort of foundation to level the ground would be sufficient, requiring the ramp to be a little steeper.

Mr. Nordquist appreciates her explanation and states that his preference is for the option at the Southwest corner.

Chair Spencer asks if there are any other questions for Kelly Harris; none respond.

Chair Spencer then asks if there is anyone wishing to speak in favor the applicant; none respond. Chair Spencer asks if there is anyone who wishes to speak in opposition; none respond. Chair Spencer closes the public hearing, and given that the alternatives from staff are not different from the previous items, he excuses Mr. Brown from presenting them and calls for the Board to discuss.

Chair Spencer confirms that Mr. Crofford's preference is for the option at the Southwest corner, and Mr. Crofford responds affirmatively, however he states that he does not see a significant difference between the two.

Mr. Crofford comments that the subject property is relatively close to OSU Campus, and that University Drive is just to the North of 3rd Avenue.

Mr. Crofford continues, stating that Lot 1 stays at a higher elevation, and the road it sits on only leads to the West—meaning that any traffic only moves to the West; furthermore, there is already street parking at that location, providing screening from traffic coming from the North on South Jefferson Street, and the road to the South has two-way traffic. Mr. Crofford concludes his point by stating his preference for Option #1, due to traffic only coming from one direction.

Mr. Nordquist comments that the One-Way street CAC was referring to is actually an alley, however both acknowledge that said alley is still regularly used due to its proximity to OSU Campus.

Mr. Nordquist states that he is hesitant concerning the corner of 3rd and Jefferson.

Mr. Crofford responds that he would prefer the proposed shed to be on the alley as well.

Mr. Hardin speaks, asking if it has been established that the applicant has met all 4 Criteria for approval. Mrs. Payne clarifies that the discussion seems to be around Criteria #4. Chair Spencer agrees, and Mrs. Payne informs the Board that they may adopt the 3 Criteria and one of the two options.

Chair Spencer states if the Board agrees that Criteria 1 through 3 are met, the question is whether Option 1 or Option 2 will be adopted.

Mr. Crofford remarks that he doesn't have a strong opinion on either option, and that he was merely observing how traffic flows in the area in his earlier comments; considers the proximity of the alleyway, OSU Campus, and the high amount of foot traffic in the area; remarks that, if he were a pedestrian or bicyclist, a very busy time would be 3pm, and is concerned for pedestrian safety in the area around high-traffic, peak times; and continues to say that he believes that Option #2 would be better, given those factors.

Chair Spencer agrees.

Chair Spencer asks if there are any other comments for discussion, or if there is a motion.

Mr. Crofford motions to approve Variance 22-04, Option #2, based upon the proposed criteria discussed by the Board Members and the applicant. Mr. Nordquist seconds.

Roll Call:	Spencer	Nordquist	Hardin	Crofford	Mason
	Yes	Yes	Yes	Yes	Yes

Time: 14 Minutes

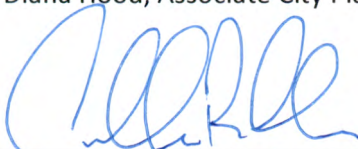
3. MISCELLANEOUS ITEMS FROM STAFF FOR DISCUSSION AND POSSIBLE ACTION:

- a. Next Board of Adjustment meeting Thursday, April 07, 2022.

4. ADJOURNMENT.

This regular meeting of the Board of Adjustment adjourned with all members in attendance in agreement at approximately 6:21 p.m.

Prepared by – Diana Hood, Associate City Planner

Approved by: 

Stillwater Board of Adjustment